

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's Own Motion into the Operations and Practices of Live Oak Springs Water Company (U390W), and its Owner/Operator, Nazar B. Najor; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should not Petition the San Diego County Superior Court for a Receiver to Assume Possession and Operation of the Live Oak Water Company pursuant to the California Public Utilities Code section 855. Other Named Respondents Include City National Bank, Live Oak Holding, LLC a Nevada Limited Liability Company; Matthew Semmer, Receiver for City National Bank.

Investigation 12-08-004  
(Filed August 2, 2012)

**DECISION CORRECTING RESPONDENTS NAMED IN THIS INVESTIGATION****1. Summary**

This decision corrects named respondents to accurately identify current and additional respondents based upon facts that have emerged since the Order Instituting Investigation was issued.

**2. Background**

This Order Instituting Investigation (OII) was issued on August 2, 2012 based on facts known at that time. The California Public Utilities Commission (Commission), recognizing that it may need to include additional respondents or

charges and accurately reference the current respondents included an Order in the OII to amend this investigation. Ordering Paragraph 10 to the OII stated that: “Staff may propose amending this OII to include additional Respondents or charges. Certain parties may be added or deleted to this proceeding as additional facts emerge during the Commission’s investigation. Any such proposal must be presented to the Commission in the form of a motion to amend the OII.”

### **3. Motion to Add Necessary Respondents and Correct Inaccuracies**

The Commission’s Division of Water and Audits (DWA) filed a December 13, 2012 motion to add named respondents to the OII and to correct inaccuracies in currently named respondents based upon facts that have emerged since the OII was issued. The additional respondents are Daniel B. Najor, Ramsey Najor, Lauren P. Najor, Live Oak Management Corporation, and Live Oak Enterprises, LLC.

The inaccuracies identified by DWA that needed to be corrected to conform with a October 12, 2012 Joint Stipulations of Fact and Procedural History (Joint Stipulations) filed in this proceeding are to change named respondents: (1) Live Oaks Springs Water Company to Live Oak Springs Water Company; (2) Nazar B. Najor to Nazar E. Najor; and (3) Matthew Semmer, Receiver for City National Bank to Matthew Semmer, Receiver appointed by Superior Court of California, County of San Diego in *City National Bank v. Live Oak Holding, LLC, et al*, (Super. Ct. San Diego County, 2012, No. 37-2012-000651199-CU-MC-EC).

DWA’s motion is unopposed and should be granted. While this OII should be amended to accurately identify respondents, the caption to this OII should remain as issued.

#### **4. Removal of a Respondent**

Matthew Semmer (Mr. Semmer ), named as a respondent to the OII, was identified in the OII caption as a Receiver for City National Bank. However, the Joint Stipulations clarified that Mr. Semmer was appointed by the Superior Court of the County of San Diego and was not a Receiver for City National Bank. The Joint Stipulations also clarified that the scope of Mr. Semmer, as a Receiver of the Superior Court, was restricted to control of Live Oak Holding, LLC rents, issues, and profits, and a water account under the name of Live Oak Holding, LLC. Subsequently, by a December 28, 2012 filing, Mr. Semmer clarified that the Superior Court in the County of San Diego further ordered that Mr. Semmer shall have no further responsibility for monitoring or otherwise protecting any collateral deposited into Live Oak Holding, LLC's water account.

At a January 10, 2013 evidentiary hearing the assigned Presiding Officer received testimony confirming Mr. Semmer's responsibility as a Receiver of the Superior Court of the County of San Diego and ruled that Mr. Semmer should be removed from a respondent of this proceeding.<sup>1</sup> The Presiding Officer's ruling that Mr. Semmer be removed as a respondent to this OII should be affirmed.

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<sup>1</sup> Reporter's Transcript, Vol. 1 at 30.

## **5. Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on February 27, 2013. There were no filed reply comments.

## **6. Assignment of Proceeding**

Catherine J.K. Sandoval is the assigned Commissioner and Michael J. Galvin is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Ordering Paragraph 10 of this OII provided a procedure for Commission staff to amend this OII to include additional respondents or charges, and to remove respondents as additional facts emerge during the Commission's investigation.

2. A Joint Stipulations filed with the Commission provided additional information requiring the need to modify the OII caption.

3. A Joint Stipulations clarified Mr. Semmer's responsibilities as a Receiver of the Superior Court of the County of San Diego.

4. DWA filed an unopposed motion to add necessary respondents and to correct inaccuracies.

5. The Presiding Officer received testimony confirming Mr. Semmer's responsibility as a Receiver of the Superior Court of the County of San Diego and ruled that Mr. Semmer should be removed from a respondent of this OII.

6. Receiver, Mr. Semmer filed a December 28, 2012 statement in support of dismissing him as a respondent to the OII.

**Conclusions of Law**

1. This OII should be modified to accurately name respondents based upon facts that have emerged since the OII was issued. However, the caption of this OII should remain as issued.
2. The Presiding Officer's ruling that Mr. Semmer should be removed from a respondent of this OII should be affirmed.

**O R D E R****IT IS ORDERED** that:

1. Order Instituting Investigation 12-08-004 is amended to accurately reference the current respondents to this proceeding in conformity with a Joint Stipulations of Fact and Procedural History filed on October 12, 2012 as follows:  
(1) Live Oaks Springs Water Company to Live Oak Springs Water Company;  
(2) Nazar B. Najor to Nazar E. Najor; and (3) Matthew Semmer, Receiver for City National Bank to Matthew Semmer, Receiver appointed by Superior Court of California, County of San Diego in *City National Bank v. Live Oak Holding, LLC, et al*, (Super. Ct. San Diego County, 2012, No. 37-2012-00065199-CU-MC-EC).
2. Order Instituting Investigation 12-08-004 is amended to include five additional respondents. These additional named respondents are:  
(1) Daniel B. Najor; (2) Ramsey Najor; (3) Lauren P. Najor; (4) Live Oak Management Company; and (5) Live Oak Enterprises, LLC.
3. The Presiding Officer's ruling that Matthew Semmer should be removed from a respondent of this Order Instituting Investigation is affirmed.

4. Each subsequent decision in this proceeding shall include above the title of the decision a parenthetical that reads substantially as follows: (Appendix \_ contains the list of respondents to this investigation, as modified and corrected by Decision 13-\_\_-\_\_.).

5. Investigation 12-08-004 remains open to address the issues identified in the assigned Commissioner's September 25, 2012 Scoping Memo and Ruling.

This order is effective today.

Dated \_\_\_\_\_, at San Diego, California.